

Application No.: 10/601,658Docket No.: 2336-180REMARKS

The Examiner's indication of allowable subject matter of claims 2, 9 and 11 is noted with appreciation.

Claims 1-20 are pending in the application. Allowable claim 9 has been rewritten in independent form including all limitations of base claim 1 in the manner kindly suggested by the Examiner in paragraph 8 of the Office Action. Independent claims 1 and 10 have been amended to better define the claimed invention. The original claims have also been amended to improve claim language. New claims 18-20 including limitation of original claims 8, 9 and 17, respectively, have been added to provide Applicants with the scope of protection to which they are believed entitled. The Abstract has been revised to be compliant with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The 35 U.S.C. 102(e) rejection of claims 1, 3-8, 10 and 12-17 as being anticipated by *Ruby* (U.S. Patent Application Publication No. 2004/0172798) is noted. Although Applicants do not necessarily agree with the Examiner's position that the applied reference teaches all limitations of the rejected claims, amendments have nevertheless been made to the independent claims to specifically define the claimed invention over the reference.

In particular, amended independent claim 1 now requires that the seed layer consist essentially of one metal selected from the group consisting of gold (Au) and titanium (Ti). Amended claim 1 finds solid support in the original specification, especially at page 13, lines 1-2. The advantages of the claimed invention have been disclosed in the specification, e.g., at page 10, lines 7-20; page 14, lines 8-11; and page 21, lines 9-21. In particular, the disclosed advantages can be achieved in the claimed invention because the metal of the seed layer, i.e., Ti or Au, has crystalline characteristics that allow Mo to be grown thereon with an excellent preference for (110) orientation. The crystalline characteristics of Au and Ti are not present in the conventional seed

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layer materials such as other metals, oxides, or nitrides, and therefore, the advantages of the claimed invention cannot be obtained in the conventional FBAR devices.

Amended independent claim 1 is clearly patentable over the art, especially *Ruby*, which teaches a seed layer made of a conventional material, i.e., an oxide (TiN) rather than a metal (Ti or Au) as presently claimed. Thus, the claimed device is not only structurally distinguishable from *Ruby*, but also superior to the reference's device, at least, in term of (110) orientation. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over *Ruby* and request that the 35 U.S.C. 102(e) rejection relying on *Ruby* be withdrawn.

Claims 2-8 and new claims 18-19 depend from claim 1, and are considered patentable at least for the reason advanced with respect to amended claim 1. Claim 19 is also patentable on its own merit since the claim recites the limitation of allowable claim 9.

Independent claim 10 has been amended in a manner similar to claim 1, and is believed patentable over *Ruby* for the same reasons advanced with respect to amended claim 1. Claims 11-17 and new claim 20 depend from claim 10, and are considered patentable at least for the reason advanced with respect to amended claim 10.

Claim 9 should be allowed as indicated in paragraphs 8-9 of the Office Action.

Each of the Examiner's rejections has been traversed/overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including

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extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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